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09/275,097	03/24/1999	JOHN C. BURNS	53921/64	9336

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EXAMINER

HARPER, KEVIN C

ART UNIT

PAPER NUMBER

2666

DATE MAILED: 11/10/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/275,097

Applicant(s)

BURNS ET AL

Examiner

Kevin C. Harper

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 23 January 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-7,9-29 and 31-46 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-7,9-29 and 31-46 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☒ The proposed drawing correction filed on 23 January 2003 is: a) ☒ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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***Response to Arguments***

1. Applicant's arguments, filed July 9, 2003, with respect to the rejection(s) of claim(s) 1-7 9-29 and 31-46 pertaining to Ayanoglu have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made in view of Herrmann et al. (US 6,278,690).

***Drawings***

2. Applicant noted in the response that formal drawings were submitted separately; however, these formal drawings are not in the application file wrapper. Applicant is requested to resubmit the formal drawings in response to this Office Action.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

Claims 1-3, 23-26, 34-38 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura (5,548,639) in view of Herrmann et al. (US 6,278,690).

3. Regarding claims 1, 23 and 34-37, Ogura discloses a method for ordered release of connections from a network entity in a communications network (Figure 8a). The connections

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are routed across respective communications paths (Figure 6; note: connections 0001-0004 are routed across paths L2 and L3) through a network entity (item N4) having inherent interfaces. The method comprises associating a priority indicator with each connection (Figure 7a) and upon a failure, releasing every connection in a sequence which corresponds to a priority hierarchy (Figure 8a, steps 3-7 and 9); col. 7, line 61 through col. 8, line 4; col. 8, lines 32-44). However, Ogura does not disclose that the connections are released in response to a failure in a signaling link. Herman discloses detecting a link failure based on a signaling failure (col. 5, lines 19-22). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to detect a link failure by a lack of signaling in the invention of Ogura in order to determine when a link carrying data has failed.

4. Regarding claims 2-3, 24-26, and 38, in Ogura an ordered priority list of the effected links is compiled (Figure 7a, lower table).

Claims 4 and 27 rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura in view of Herrmann et al., as applied to claims 3 or 26 above, and further in view of Tomikawa (US 5,140,585) and Ben-Nun et al. (US 5,515,363).

5. Regarding claims 4 and 27, Ogura in view of Herrmann discloses establishing a connection using a request message (Ogura, Figure 6; col. 7, lines 31-39). However, the message does not identify the source and destination of the connection, nor the priority of the connection. Tomikawa discloses a source and destination of the connection in a connection request message (col. 6, lines 4-14). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have source and destination addresses in a connection request message in the invention of Orgua in view of Herrmann to identify the proper routing of

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a connection to a destination for subsequent messages from a source. Further, Ogura in view of Herrmann and Tomikawa does not disclose including a priority of a connection in a request message. Ben-Nun discloses transmitting a desired priority of a connection in a request message according to the ATM standard (col. 4, lines 6-10, 14-16 and 32-33) in order to give the connection a higher transmission priority (col. 9, lines 4-16). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to have a desired priority in a request message according to the ATM standard in the invention of Orgua in view of Herrmann and Tomikawa.

Claims 5-6, 9-10, 20-21, 28-29, 31 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura in view of Herrmann et al. and Tomikawa and Ben-Nun et al., as applied to claims 4 or 27 above, in further view of Rochberger (US 6,272,107).

6. Regarding claims 5, 9, 28-29 and 31, Ogura in view of Herrmann, Tomikawa and Ben-Nun does not disclose transmitting a release message to a source or destination. Rochberger discloses transmitting signaling to a source or destination associated with a failed link in order to notify the source and designation of the failure so that the end-to-end connection may be restored (Figure 8, steps 112 and 118; col. 11, lines 50-59). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to notify the source and destination of a failure of an associated connection in the invention of Ogura in view of Herrmann, Tomikawa and Ben-Nun.

7. Regarding claims 6 and 20-21, in Ogura the priority indicators are associated with the connection in a look up table (Figure 7).

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8. Regarding claims 10 and 33, in Ogura the connections are listed according to their rates (Figure 7a, lower table).

Claims 11 and 32-33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ogura in view of Herrmann et al., Tomikawa, Ben-Nun et al., and Rochberger, as applied to claims 9 or 26 above, in further view of Croslin (US 5,883,881).

9. Regarding claims 11 and 32-33, Ogura in view of Herrmann, Tomikawa, Ben-Nun, and Rochberger does not disclose that the table is listed in order from lowest traffic rate to highest traffic rate for connections having the same priority. Croslin discloses listing candidates in a restoration process in order by an attribute in order to have a selection order based on the attribute (Figure 4; col. 7, lines 48-54). Therefore, it would have been obvious to one skilled in the art at the time the invention was made to order a table according to traffic rate for connections having the same priority in the invention of Ogura in view of Herrmann, Tomikawa, Ben-Nun, and Rochberger.

#### ***Allowable Subject Matter***

10. Claims 12-22 and 34-46 allowed.

#### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kevin Harper whose telephone number is 703-305-0139. The examiner can normally be reached weekdays, except Wednesday, from 9:30 AM to 8:00 PM ET.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Seema S. Rao, can be reached at 703-308-5463. The fax number for Technology Center (TC) 2600 is 703-872-9314.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Customer Service Office for TC 2600 at 703-306-0377.

Kevin C. Harper



November 3, 2003

*Seema S. Rao*  
**SEEMA S. RAO** 11/3/03  
**SUPERVISORY PATENT EXAMINER**  
**TECHNOLOGY CENTER 2600**